

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6121 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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ISMAIL SULEMANBHAI BHATTI

Versus

DIVISIONAL CONTROLLER, G.S.R.T.C..

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Appearance:

MR HK RATHOD for Petitioner

MR SM MAZGAONKAR for Respondents No. 1, 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/11/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. Challenge has been made by the petitioner by this special civil application to the order of the respondent No.2 dated 24th October, 1985 annexure 'G' under which the order of the dismissal of petitioner from services passed by the respondent-Corporation has been given approval by allowing the Corporation's application filed

under section 33(2)(b) of the Industrial Disputes Act, 1947.

3. This Court has granted interim relief in terms of para-9(B), which reads as under:

Pending the hearing and final disposal of this special civil application, Your Lordships will be pleased to grant interim relief to the petitioner, that 1/2 salary which has been granted by the Honourable High Court in special civil application No.6323/84 will be continued upto the decision of the present petition.

So it is not in dispute that in terms of the interim relief which has been granted by this Court, the petitioner is getting 1/2 salary which was granted by this Court in special civil application No.6323/84 for all these years.

4. The counsel for the petitioner admits that the order of dismissal of the petitioner from the services has already been challenged by the petitioner by raising an industrial dispute, and the said dispute has been referred to the Labour Court, Bharuch, where it is registered as Reference No.398/93 and the same is pending.

5. In view of the fact that the petitioner has already raised an industrial dispute in respect of his dismissal from services by the Corporation, nothing now survives in this special civil application. The legality, propriety and correctness of the order of respondent-Corporation dismissing the petitioner from services has to be gone into by the Labour Court in Reference on all counts. However, the counsel for the petitioner submits that in case this petition is dismissed then the interim relief which is continuing for all these years will come to an end. The counsel for the petitioner is also not disputing the position that the Labour Court has also the powers to grant interim relief in such matters.

6. This special civil application in view of the fact that the petitioner has already raised an industrial dispute in the matter of his dismissal from services now no more survives. In that forum, the petitioner can also question the validity of the order impugned in this special civil application. However, the interim relief which has been granted by this Court shall continue for a period of three months and thereafter, the Labour Court

shall decide for its continuation or extension in accordance with law and without being influenced by the fact that this Court has granted interim relief in favour of the petitioner. Reference itself in the facts of the present case needs to be decided at an early date. It is expected of the Labour Court at Bharuch that it shall take all the care to see that the Reference aforesaid is decided within a period of six months from the date of receipt of writ of this order. The special civil application is dismissed and Rule is discharged subject to the aforesaid directions.

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